

# SUPREME COURT OF ARKANSAS

No. CR06-1385

ERIC DAVIS,

APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

Opinion Delivered January 4, 2007

MOTION FOR RULE ON CLERK

REMANDED.

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## PER CURIAM

Appellant Eric Davis filed a motion for rule on the clerk seeking an order of this court directing the Arkansas Supreme Court Clerk to accept his record for filing. Appellant attempted to file his record on December, 1 2006, pursuant to a motion for extension of time to file the record under Arkansas Rules of Appellate Procedure—Civil 5(b), and an order by the circuit court granting an extension to seven months from the date of judgment. The clerk refused the filing because the circuit court did not find that “all parties had the opportunity to be heard on the motion, either at a hearing, or by responding in writing” as required by Rule 5(b)(1)(C).

Arkansas Rules of Appellate Procedure—Civil 5(b)(1)(C) provides, in part, the following:

(b) *Extension of time.*

(1) If any party has designated stenographically reported material for inclusion in

the record on appeal, the circuit court, by order entered before expiration of the period . . . *may extend the time for filing the record only if it makes the following findings:*

\* \* \*

(C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing[.]

(Emphasis added.)

This court has made it very clear that we expect strict compliance with the requirements of Rule 5(b), and that we do not view the granting of an extension as a mere formality. *See, e.g., Woods v. Tapper*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (Jan. 19, 2006) (per curiam). The order of extension in this case makes no reference to the findings of the circuit court required under Rule 5(b)(1)(C). Accordingly, we remand this matter to the circuit judge for compliance with Rule 5(b)(1)(C).

Remanded.